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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 09/406,477 | 09/27/1999 | CHARLES E. HILL | 45607-65055 | 1650 |
| 25267 | 7590 | 01/23/2004 | EXAMINER | |
| BOSE MCKINNEY & EVANS LLP 135 N PENNSYLVANIA ST SUITE 2700 INDIANAPOLIS, IN 46204 | | | CHANG, SABRINA A | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 3625 | |

DATE MAILED: 01/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/406,477

Applicant(s)

HILL, CHARLES E.

Examiner

Sabrina Chang

Art Unit

3625

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 October 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 21-40 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 21-40 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Art Unit: 3625

DETAILED ACTION

Response to Amendment

Applicant's cancellation of claims 1-20 and addition of claims 21-40 have been fully considered.

Response to Arguments

Wiecha explicitly states that information about the products is stored in association with images, descriptions and other information [Col 3, Line 20]. A user can compare up to four items from the same category.

Applicant's argues that Wiecha fails to explicitly disclose that similar items can be compared visually, in a side-by-side manner. This particular argument has been found persuasive, but is insufficient to overcome the examiner's obviousness-based rejection.

The purpose of the Wiecha's "compare" function is to help the user make a more informed decision in finding the product that will best fit their needs and demands. The provision of side-by-side comparison of product related data is necessary to fulfill this goal. The product data presented can be of any nature – image, text or otherwise. In that Wiecha already accounts for the storage and display of image data in combination with text data, in relation to individual products, it would seem obvious to apply this functionality in the "compare" context.

A clarified rejection is stated below.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

Art Unit: 3625

having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 21 – 26, 28, 29, 32 –35, 37, and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wiecha Patent No. 5,870,717 in view of Johnson et al. Patent No. 6,067,525.

Wiecha discloses a system enabling a user to purchase an item from a supplier using an electronic catalog, via a communications network (a catalog inherently comprises the storing of product data including image data and textual data relating to a plurality of products in a memory of the vendor's computer, transmitting the product data related to a plurality of products from the vendor's computer to the remote computer for display on the display) [Abstract].

A user can browse, search and order from the electronic catalog (receiving a user input to order a selected product displayed on the display and automatically generating an order form for the selected product, transmitting the order form from the remote computer to a vendor's computer wherein the order form includes a plurality of selected products) [Col 7, Line 61]. A user finds his/her desired products using any number of searching techniques: keyword, manufacturer or index (transmitting data related to a plurality of product categories from the vendor's computer to the remote computer for display on the display, receiving a user input selecting a product category from the plurality of product categories displayed on the display, and wherein the step of transmitting product data related to the plurality of products includes product data related to the selected product category) [Col 8, Line 57]. Once the user has narrowed his/her choices down, he/she can select the "compare" function. Up to four different products can be compared (receiving a user input from the remote computer selecting at least two products from the product data displayed on the display) [Col 8, Line 60]

Wiecha does not explicitly disclose:

Art Unit: 3625

- Transmitting display instructions from the vendor's computer to the remote computer to permit the remote computer to combine the image data and the textual data related to the at least two selected products from the product data received from the vendor's computer to display including both image data and textual data product information related to the at least two selected products for a side-by-side comparison the display of the remote computer
- Wherein the product data related to the at least two selected products is displayed in at least two side-by-side review boxes

Johnson teaches an electronic sales system. The context of Johnson's system is dissimilar to that of Wiecha. Both inventions however are generally suited to facilitate sales to an end consumer by presenting data, both image and text, about a plurality of products. Johnson specifically teaches a product module that is designed to present a variety of product information to the customer using a combination of text and graphic illustrations, motion, video and sound (display instructions indicate a format of the textual data and a display location of the image data relative to the textual data) [Col 12, Line 23]. The product module also incorporates a competitive comparison module. The module presents one vendor's product information side by side with a competitor's product information. This module supports various states including graphic states (e.g. still, animation, movies, sound, white papers, etc.) and has the capability of importing selected standard graphic formats as well as using selective presentation software output (integrating text and image data in comparing selected products) [Col 12, Line 43].

In that Wiecha already incorporates the capability of displaying image and text data for a plurality of products individually, it would have been obvious to modify the system to expand this functionality to the "compare" mode – i.e. combining image and text data in side-by-side comparisons – as taught by Johnson, in order to provide the user with a more effective means of making an educated and rational buying decision.

Art Unit: 3625

Wiecha also does not explicitly disclose a scroll box displayed on the display which includes product data related to the plurality of products. Scroll boxes are notoriously well known in the art of electronic display as a means of allowing a user to view an object/image that goes beyond the boundaries of the display. The implementation of such a device is merely one of many means that the administrator/designer would have to implement to allow a user to view an image in its entirety. Therefore, it would have been obvious to one skilled in the art at the time to modify Wiecha to incorporate a scroll bar, or any other means of allowing the user to view a truncated image.

Claims 27, 29 – 31, 36, and 38 - 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wiecha Patent No. 5,870,717 in view of Johnson et al. Patent No. 6,067,525, as applied in claims 21 and 32, in further view of Mizokawa, Patent No. 4,530,009.

The combined system of Wiecha/Johnson does not explicitly provide for:

- Transmitting display instructions including transmitting a map from the vendor's computer to the remote computer
- Wherein the display instructions permit integration of the product data with the selected background image on the display
- Wherein the product image and the selected background image are integrated based on a map transmitted to the remote computer from the vendor's computer

Yoda teaches a system and method of ordering products where on a monitor display the product image is superimposed on the customer's body image (integration of product data with a selected background image on the display). Yoda specifically seeks to address the problems of remote ordering – i.e. consumers cannot see, touch or feel their potential purchases and therefore cannot make the most informed buying decisions [Col 1, Line 30].

Art Unit: 3625

Generally, the concept of superimposing the image of a specific, user-selected product onto a administrator/designer-selected background, is well known in the art [See also Spackova et al. (4,539,585), Hutton (5,440,479) and Mizokawa (4,530,009)].

It therefore would have been obvious to one skilled in the art at the time to modify the remote electronic purchasing system of Wiecha/Johnson to incorporate image superimposing capabilities, as taught by Yoda, in order to give the customer a better idea of what their selected product will actually look and feel like in the proper context, thereby facilitating a more educated buying experience.

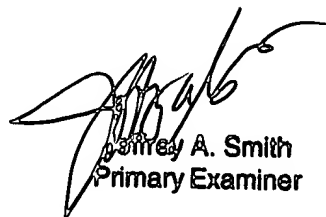
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sabrina Chang whose telephone number is 703 305 4879. The examiner can normally be reached on 8:30 am - 5:30 pm Mon.- Fri..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey Smith can be reached on 703 308 3588. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703 308 1113.

SC



Jeffrey A. Smith
Primary Examiner